

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

J & J Sports Productions, Inc.,

(b) County of Residence of First Listed Plaintiff Santa Clara

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lundberg & Associates, PC
3269 South Main Street, Suite 100, Salt Lake City, UT 84115
801-263-3400

DEFENDANTS

Beehive Cigars, LLC and Kendrick Woolstenhulme,

County of Residence of First Listed Defendant Salt Lake

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Joseph R. Goodman

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input checked="" type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
47 U.S.C. 605, 47 U.S.C. 553

Brief description of cause:

Violation of 47 U.S.C. 605, violation of 47 U.S.C., conversion, for interception and display of fighting match.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 320,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/10/2016

SIGNATURE OF ATTORNEY OF RECORD

/s/ Hillary R. McCormack

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Brad G. DeHaan (# 08168)
Hillary R. McCormack (#11719)
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Attorneys for Plaintiff
L&A Case No. 16.65370.1/KF

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

vs.

BEEHIVE CIGARS, LLC AND KENDRICK
WOOLSTENHULME,

Defendants.

COMPLAINT

Civil No.

Judge

JURISDICTION

1. Jurisdiction is founded on the existence of a question arising under particular statutes. This action is brought pursuant to the following federal statutes: Communications Act of 1934, as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection and Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*

2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. Section 1331, which states that the District Courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties, of the United States. This Court has subject

1 matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 (supplemental
2 jurisdiction).

3 3. This Court has personal jurisdiction over the parties in this action as a result of
4 defendants' wrongful acts hereinafter complained of which violated plaintiff's rights as the
5 exclusive commercial domestic distributor of the televised fight (the "Program") hereinafter set
6 forth at length. Defendants' wrongful acts consisted of the interception, reception, publication,
7 divulgence, display, exhibition, and tortious conversion of said property of plaintiff within the
8 control of the plaintiff in the State of Utah.
9

10 VENUE

11
12 4. Pursuant to Title 47 U.S.C. Section 605, venue is proper because a substantial part of the
13 events or omissions giving rise to the claim occurred in this District.

14 PARTIES

15 5. Plaintiff J & J Sports Productions, Inc. ("plaintiff") is and at all relevant times mentioned
16 was, a California corporation with its principal place of business located at 2380 South Bascom
17 Avenue, Suite 200, Campbell, California 95008.

18 6. Defendant Kendrick Woolstenhulme ("defendant Woolstenhulme") is a resident of the
19 State of Utah who owns and operates the commercial establishment Beehive Cigars, LLC located
20 at 1860 South 300 West, Suite D, Salt Lake City, UT 84115.
21

22 7. Defendant Beehive Cigars, LLC ("defendant Beehive") is a Utah limited liability
23 company operating in the state of Utah at 1860 South 300 West, Suite D, Salt Lake City, UT
24 84115.
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8. On or about February 28, 2015, the night of the Program described herein, defendant Woolstenhulme had the right and ability to supervise the activities of Defendant Beehive, which included the unlawful interception of plaintiff's Program.

9. On or about February 28, 2015 (the night of the Program at issue herein, as more specifically defined in paragraph 13), defendant Woolstenhulme either himself personally or specifically directed the employees of defendant Beehive to unlawfully intercept and broadcast plaintiff's Program at defendant Beehive's business location of 1860 South 300 West, Suite D, Salt Lake City, UT 84115.

10. Defendant Woolstenhulme is directly responsible for the supervision of employees of defendant Beehive, and the actions of employees of defendant Beehive are directly imputable to defendants Woolstenhulme and Beehive.

11. On or about February 28, 2015, defendant Woolstenhulme, individually and as owner of defendant Beehive, and defendant Beehive, had an obvious and direct financial interest in the activities of defendant Beehive which included the unlawful interception of plaintiff's Program.

12. The unlawful broadcast of plaintiff's Program, as supervised and/or authorized by defendant Woolstenhulme, resulted in increased profits for defendant Beehive.

13. Defendant Woolstenhulme is an owner, and/or operator, and/or licensee, and/or permittee, and/or person in charge, and/or an individual with dominion, control, oversight and management of the commercial establishment doing business as Beehive Cigars, LLC operating at 1860 South 300 West, Suite D, Salt Lake City, UT 84115.

COUNT I

(Violation of Title 47 U.S.C. Section 605)

1 14. Plaintiff hereby incorporates by reference all of the allegations contained in paragraphs
2 1-13, inclusive, as though set forth herein at length.

3 15. Pursuant to contract, plaintiff was granted the exclusive nationwide commercial
4 distribution (closed-circuit) rights to *Ultimate Fighting Championship 184: Ronda Rousey v. Cat*
5 *Zingano* telecast nationwide on Saturday, February 28, 2015, including all under-card bouts and
6 fight commentary encompassed in the television broadcast of the event, herein referred to as the
7 Program.

8 16. Pursuant to contract, plaintiff entered into subsequent sublicensing agreements with
9 various commercial entities throughout North America, including entities within the state of Utah,
10 by which it granted these entities limited sublicensing rights, specifically the rights to publicly
11 exhibit the Program within their respective commercial establishments in the hospitality industry
12 (i.e., hotels, racetracks, casinos, bars, taverns, restaurants, social clubs, etc.).

13 17. As a commercial distributor and licensor of sporting events, including the Program,
14 plaintiff expended substantial monies marketing, advertising, promoting, administering, and
15 transmitting the Program to its customers, the aforementioned commercial entities.

16 18. With full knowledge that the Program was not to be intercepted, received, published,
17 divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every
18 one of the above named defendants, either through direct action or through actions of employees
19 or agents directly imputable to defendants did unlawfully intercept, receive, publish, divulge,
20 display, and/or exhibit the Program at the time of its transmission at their commercial
21 establishment located at 1860 South 300 West, Suite D, Salt Lake City, UT 84115.
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1 19. Said unauthorized interception, reception, publication, exhibition, divulgence, display,
2 and/or exhibition by each of the defendants was done willfully and for purposes of direct and/or
3 indirect commercial advantage and/or private financial gain.

4 20. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of
5 communications (such as the transmission of the Program for which plaintiff had the distribution
6 rights).

7 21. By reason of the aforesaid mentioned conduct, each of the aforementioned defendants
8 violated Title 47 U.S.C. Section 605, *et seq.*
9

10 22. By reason of defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, plaintiff has a
11 private right of action pursuant to Title 47 U.S.C. Section 605.

12 23. As the result of the aforementioned defendants' violation of Title 47 U.S.C. Section 605,
13 and pursuant to said Section 605, plaintiff is entitled to the following from each defendant:

- 14 (a) Statutory damages for each willful violation in an amount to
15 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also
16 (b) the recovery of full costs, including reasonable attorneys' fees,
17 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

18
19 WHEREFORE, plaintiff prays for judgment as set forth below.

20 COUNT II

21 (Violation of Title 47 U.S.C. Section 553)

22
23 24. Plaintiff hereby incorporates by reference all of the allegations contained in paragraphs
24 1-23, inclusive, as though set forth herein at length.

1 25. The unauthorized interceptions, reception, publication, divulgence, display, and/or
2 exhibition of the Program by the above named defendants was prohibited by Title 47 U.S.C.
3 Section 553, *et seq.*

4 26. By reason of the aforesaid mentioned conduct, each of the aforementioned defendants
5 violated Title 47 U.S.C. Section 553, *et seq.*

6 27. By reason of defendants' violation of Title 47 U.S.C. Section 553, *et seq.*, plaintiff has a
7 private right of action pursuant to Title 47 U.S.C. Section 553.

8 28. As the result of the aforementioned defendants' violation of Title 47 U.S.C. Section 553,
9 plaintiff is entitled to the following from each defendant:
10

- 11 (a) Statutory damages for each violation in an amount to
12 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also
13
14 (b) Statutory damages for each willful violation in an amount to
15 \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also
16
17 (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553
18 (c)(2)(C); and also
19 (d) and in the discretion of this Honorable Court, reasonable attorneys' fees,
20 pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

21 WHEREFORE, plaintiff prays for judgment as set forth below.

22 COUNT III
23 (Conversion)

24 29. Plaintiff hereby incorporates by reference all of the allegations contained in paragraphs
25 1-28, inclusive, as though set forth herein at length.
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31. The aforesaid acts of the defendants were willful, malicious, egregious, and intentionally designed to harm plaintiff by depriving plaintiff of the commercial license fee to which plaintiff was rightfully entitled, and in doing so, defendants subjected plaintiff to severe economic distress and great financial loss.

PRAYER

As to the First Count:

- As to the Second Count:

- A. For statutory damages in the amount of \$60,000.00 against each defendants;

1 B. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to
2 statute; and

3 C. For all costs of suit, including but not limited to filing fees, service process fees,
4 investigative costs, and;

5 D. For such other and further relief as this Honorable Court may deem just and proper.

6 As to the Third Count:

7 A. For compensatory damages in an amount according to proof against each defendant;
8

9 B. For exemplary damages against the Defendants, and each of them;

10 C. For punitive damages against the Defendants, and each of them;

11 D. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to
12 statute;

13 E. For all costs of suit, including but not limited to filing fees, service of process fee,
14 investigative costs; and

15 F. For such other and further relief as this Honorable Court may deem just and proper.
16

17
18 Dated this ____ day of March, 2016.

19
20 Respectfully submitted,

21 LUNDBERG & ASSOCIATES, PC

22 /s/ Hillary R. McCormack
23 Hillary R. McCormack
24 Attorneys for Plaintiff
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